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CONTEMPORARY FORMS OF SLAVERY

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[7 August 1994]

Use of sexual slavery and slave labour by Japan during wartime

1. International Fellowship of Reconciliation (IFOR) welcomes the report of the nineteenth session of the Working Group (E/CN.4/Sub.2/1994/33 and Corr.1).

2. Since May 1992, the Working Group has heard reliable testimonies on sexual slavery and slave labour forced by Japan onto the victims from various countries, including Korea, the Philippines, China and the Netherlands, during the Second World War. The victims, as well as IFOR, have been demanding that the Japanese Government make reparations including monetary compensation for the individual victims and punishment of the culprits of these crimes of gross violations of human rights.

3. First, the Working Group discussed whether the United Nations had the capacity to address the issue of slavery by Japan, which took place during the Second World War (E/CN.4/Sub.2/1994/33, paras. 89-97). IFOR learned that the experts of the Working Group were satisfied with the legal arguments. Second, IFOR welcomes the recommendations made by the Working Group on an expeditious method of dispute settlement of this issue as follows (ibid., recommendation 13).

4. IFOR has been studying the question of the capacity of the United Nations to deal with this issue since the observer for the Japanese Government raised it at the eighteenth session of the Working Group. He argued that the United Nations did not have the capacity to deal with issues which occurred before the creation of the United Nations. IFOR believes, however, that this issue was already settled by the various actions taken by the United Nations bodies themselves.

5. Despite the challenge made by Japan at the Working Group in 1993, the Working Group decided to transmit the information "concerning the sexual exploitation of women, as well as other forms of forced labour, during wartime" to Mr. Theo van Boven, the Special Rapporteur on the right of restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms and to the Sub-Commission for their consideration (E/CN.4/Sub.2/1993/30, p. 40). The Working Group also requested the Special Rapporteur to take into consideration the information received by the Working Group, as well as information already submitted by the Secretary-General, in finalizing his report (ibid.).

6. The various actions taken by the United Nations bodies on slavery and slavery-like practices such as sexual exploitation of women as well as other forms of forced labour during wartime show a positive interpretation of them. (See: recommendations of the Working Group on Contemporary Forms of Slavery at its seventeenth session (E/CN.4/Sub.2/1992/34, p. 19); Sub-Commission resolution 1992/2, 14 August 1992 on Contemporary Forms of Slavery, para. 18); recommendations of the Working Group at its eighteenth session (E/CN.4/Sub.2/1993/30, p. 40); Sub-Commission resolution 1993/24 of 25 August 1993 on slavery and slavery-like practices during wartime; and recommendations of the Working Group at its nineteenth session (E/CN.4/Sub.2/1994/33)).

7. At the World Conference on Human Rights at Vienna in June 1993, this issue was debated. The Conference debated whether only "current violations" of human rights of women, such as sexual slavery in situations of armed conflicts, require a particularly effective response. The original draft final document proposed this. Following the debate between Japan and many others, the World Conference amended the text to "all violations" by consensus (A/CONF.157/23, part II.B, para. 38). Since the World Conference, we have heard no further argument from the Japanese Government.

8. For the record, IFOR wishes to enumerate some of the points thought to be important concerning this issue.

(a) First, the injuries are of a continuous nature and survivor victims are still suffering physically and mentally because of the severe damages inflicted upon them by the atrocities. The international disputes between the victims and Japan are a current issue;

(b) Second, the United Nations has some precedents for its actions, which include the resolutions of the Commission on the Status of Women and the Economic and Social Council as regards claims for reparations made by the surviving individual victims of the Nazi concentration camps injured by human experiments (see: the joint NGO statement made by IFOR at the World Conference; the IFOR statements in the Working Group in 1992; and "Plight of survivors of concentration camps", document E/1956, 16 March 1951);

(c) Third, there are actions taken by the United Nations in relation to punishment of war criminals who committed those crimes during the Second World War (see: General Assembly resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946 and 96 (I) of 11 December 1946; Economic and Social Council resolution 1974 D (XXXIX) of 28 July 1965, etc.);

(d) Fourth, the Charter of the United Nations has a provision (art. 107) as regards the continuity in relation to the activities of enemy countries of the States Members of the United Nations;

(e) Fifth, Imperial Japan was still waging war when the Charter itself was signed on 26 June 1945;

(f) Sixth, many of the duties and functions of the League of Nations were succeeded to by the United Nations, in particular in the area of slavery and the slave trade (see: Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, preamble; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, preamble).

9. Since the Japanese Government's statement at the Sub-Commission in 1993, it was misunderstood by many, that the Japanese Government promised to pay monetary reparation to individual victims of the atrocities committed during the Second World War. The statement made by Japan at the Sub-Commission in 1993 was no more than a partial admission of the facts. In addition to this, it concerned only the sexual slavery victims and did not include other victims, such as the slave labourers used by Japan.

10. Some of the victims from Korea, the Philippines and the Netherlands went to the Japanese courts, demanding reparations against the Japanese Government. The legal procedure in Japan is frustratingly slow and can never be effective remedies to settle these cases. Many experienced lawyers in Japan predict that the victims must spend more than 10 to 20 years to exhaust the three-stage Japanese civil law procedure up to a judgement of the Supreme Court. Considering that the age of the youngest "comfort woman" is 63, the Japanese Government is invited to accept the demand for an expeditious arbitration, if requested to do so by the victims. IFOR wishes to point out its existence of the Permanent Court of Arbitration (the PCA), which can offer its services for cases where one party is not a State.

11. The PCA was established by the Hague Convention on the Pacific Settlement of International Disputes in 1899. This court was originally created for arbitration between States. The PCA, however, was made available for arbitration between a State and non-State individuals by the 1962 procedure, which was amended in July 1993 (see: "Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two Parties of which only One is a State" published by the International Bureau of the Permanent Court of Arbitration, Peace Palace, The Hague). If a State and individuals make an agreement (compromis), then the PCA can establish a tribunal to settle the international dispute between them. The PCA may be able to give a judgement within one year, if both parties cooperate.

12. IFOR recommended to the Japanese Government to settle the "comfort women" issue before the PCA in February 1994. The Working Group made recommendations mentioned above as regards the PCA. The victims and their supporting organizations have seriously discussed the recommendations made by the Working Group on the PCA. On 20 July 1994, 10 "comfort women" victims in the Republic of Korea and the Korean Council for the Women Drafted for Sexual Slavery by Japan made a formal announcement to accept the recommendations made by the Working Group and go to The Hague to settle the issue before the PCA.

13. IFOR strongly urges the Japanese Government to accept the recommendations of the Working Group and to settle the legal arguments as soon as possible while the victims are still alive.

14. IFOR requests the Sub-Commission to endorse the recommendations of the Working Group and to consider positively this information on the availability of a procedure for arbitration between Japan and the victims of sexual slavery and other forms of forced labour. We believe that the use of the PCA will not only provide the victims, as well as Japan, with expeditious resolution of the international disputes but will also contribute to secure peace in the world.

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